

REMARKS

Reconsideration of this Application and entry of this Amendment is respectfully requested.

35 U.S.C. §103(a) Rejection

In the Office Action, claims 1-3, 16, 20-22, 24-25, 27, 30-31 and 34-35 were rejected as being unpatentable over United States Patent No. 5,965,089 (Jarvik et al.). As the Examiner recognizes, the device of (Jarvik et al.) is not entirely implantable within the chest cavity of the patient. Rather, when installed and in operation, substantial portions of the Jarvik et al. device remain extracorporeally located. However, the Examiner contends that the recitation in claim 1 that the device is “sized and configured so as to be implanted within the chest cavity of the subject” is not a structural limitation and, thus, cannot overcome the rejection over Jarvik et al.

By the present amendment, claim 1 has been modified to specifically recite the position and location of the elements of the device relative to each other and relative to the surrounding anatomical structures when the device is implanted in a subject's body. This claim, as amended, fully complies with the requirements of 35 U.S.C. §112 and clearly distinguishes over Jarvik et al. as well as all other prior art of record.

Accordingly, the present amendment to claim 1 is believed to have overcome the stated grounds for rejection and to have placed all claims 1-3, 16, 20-22, 24-25, 27, 30-31 and 34-35 in condition for allowance.

Conclusion

Applicant believes all the pending claims are in condition for allowance and should be passed to issue. The Commissioner is hereby authorized to charge any additional fees which may be required under 37 C.F.R. 1.17, or credit any overpayment, to Deposit Account No. 01-2525. If the Examiner feels that a telephone conference would in any way expedite the prosecution of the application, please do not hesitate to call the undersigned at telephone (707) 566-1746.

Respectfully submitted,

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